

SECTION II: REMARKS

I. INTRODUCTION

Claims 1-12 have been cancelled, and new claims 13-27 have been added. The new claims are fully consistent with and supported by the originally-filed specification.

New claim 13 is supported by the specification, for example, at pages 2-3 (filtering of information about content that cannot be rendered by at least one network device, storing filtering information); page 2 (browsing or querying by devices of content stored on a network); page 2 (problem of browsing a network including content that cannot be rendered or used by a device); page 3 (identification and selection of stored information after incompatible information has been filtered out); page 6 (filtering means used to filter information about available content, and store same in a database), page 7 (periodic identification of content directory with removal of content no longer compatible with any network rendering device); page 9 (filtering of information about available content and storage of information limited to content being compatible with connected network rendering devices). Further with respect to independent claim 13, new step (c) and the wherein clause of independent claim 13 are supported by the originally-filed specification, for example, at pages 2-4 and 8-9 thereof. Page 3-4 of the specification disclose that faster reaction times are realized by browsing filtered information stored in the content directory service as compared to searching all stored content. Page 3 refers to an embodiment in which filtering and storing steps are performed in predetermined time intervals without requiring information indicative of presence of network rendering devices. Pages 8-9 (e.g., in connection with Figure 3) disclose updating of the filtering and storing steps as needed upon detection of changes to the network or network rendering devices. Page 2-3 also refer filtering of information and storing said filtered information, and the stored information “can *then* be selected before trying to initiate a rendering process, and using this information it can be ensured that only possible rendering processes are selected, or that only content, which can be rendered, is made

visible to a user trying to activate a rendering process¹.” Page 4 discloses an embodiment in which previously-filtered information continues to be stored on a network after removal of a network rendering devices, thus minimizing network load associated with re-filtering content information.

New claims 14-17 are supported by the originally-filed specification, for example, at page 3.

New claim 18 is supported by the originally-filed specification, for example, at page 4.

New claim 19 is supported by the originally-filed specification, for example, at pages 3-4.

New claim 20 is supported by the originally-filed specification, for example, at page 4.

New claim 21 is supported by the originally-filed specification, for example, at page 3.

New claim 22 is supported by the originally-filed specification, for example, at pages 2-3.

New claim 23 is supported by the originally-filed specification, for example, at page 3.

New claim 24 is supported by the originally-filed specification, for example, at page 4.

New independent claim 25 is supported by the originally-filed specification, for example, at pages 3-4, 5, and 8-9, with reference to specific portions discussed above in connection with claim 13.

New claim 26 is supported by the originally-filed specification, for example, at pages 1, 6 and 8.

¹ Application, page 3, first full paragraph.

New claim 27 is supported by the originally-filed specification, for example, at pages 2-4.

No new matter within the meaning of 35 U.S.C. 132(a) has been introduced by the foregoing amendments.

As all claims 1-12 have been cancelled, the claim rejections raised in the March 31, 2009 are moot. All of the claim rejections raised in the March 31, 2009 Office Action are inapposite to the new claims as presented amended herewith for the reasons set out below.

II. NEW CLAIMS 13-27 ARE NOVEL AND NON-OBVIOUS OVER THE CITED ART

In the April 13, 2009 Office Action, independent claims 1 and 11 (together with dependent claims 5, 6, and 10) were rejected under 35 U.S.C. 103(a) as being unpatentable for obviousness over U.S. Patent No. 6,049,821 to Theriault, et al. ("Theriault") in view of U.S. Patent No. 6,065,055 to Hughes, et al. ("Hughes"). Claims 2 and 3 were rejected under 35 U.S.C. 103(a) over Theriault and Hughes, further in view of U.S. Patent Application Publication No. 2003/0023671 to Abdulrahiman et al. ("Abdulrahiman"); claim 4 was similarly rejected under 35 U.S.C. 103(a) over Theriault and Hughes in view of U.S. Patent Application Publication No. 2003/0126086 to Safadi ("Safadi"); claims 7 and 8 were similarly rejected under 35 U.S.C. 103(a) over Theriault and Hughes further in view of U.S. Patent Application Publication No. 2002/0143780 to Gorman ("Gorman"); and claim 9 was rejected under 35 U.S.C. 103(a) over Theriault and Hughes further in view of U.S. Patent Application Publication No. 2002/0078161 to Cheng ("Cheng").

New claims 13-27 include two independent claims, namely, independent method claim 13 and independent device claim 25. Such claims are reproduced below with emphasis on features distinguishing these claims over the cited art.

13. A method of filtering and storing information about content stored on at least one network device and accessible via a network, said content

being potentially useable by a plurality of network rendering devices adapted for rendering content, the method comprising:

a) periodically filtering information about the content to yield filtered information devoid of content that cannot be rendered by at least one network rendering device of the plurality of network rendering devices;

b) storing in a content directory the filtered information devoid of content that cannot be rendered by said at least one network rendering device; and

c) **searching or browsing the content directory to review said filtered information** devoid of content that cannot be rendered by the at least one network rendering device;

wherein said searching or browsing of the content directory is independent of said periodic filtering of information about the content to yield filtered information devoid of content that cannot be rendered by the at least one network rendering device.

25. A device adapted for filtering and storing information about content accessible via a network, said content being potentially useable by a plurality of network rendering device adapted for rendering content, the device comprising:

a) at least one filtering element adapted to periodically filter information about the content to yield filtered information devoid of content that cannot be rendered by at least one network rendering device of the plurality of network rendering devices; and

b) a storage element containing a content directory including the filtered information devoid of content that cannot be rendered by said at least one network rendering device;

wherein the content directory is searchable or browseable to enable review of said filtered information devoid of content that cannot be rendered by the at least one network rendering device, **and the content directory is searchable or browseable independently of said periodic filtering** by the at least one filtering element.

(Emphasis added.)

The background section of the present application notes the following:

"...browsing through the available information about content by (all) control points in the home network can put a significant load on all involved devices and on the network. A related problem is that Control Points often show all available content to a user, even content that cannot be used on any other device in the home. This is irritating to

the user when he selects that content, only to find out that it is presented in the wrong format or wrong DRM system².”

The subject matter embodied in new independent claims 13 and 25 addresses the foregoing limitations associated with prior art systems. Information about content may be periodically filtered to yield filtered information devoid of content that cannot be rendered by at least one network rendering device of the plurality of network rendering device, and such filtered information may be stored in a content directory. This prefiltered and stored information may be browsed or searched at any time thereafter to identify content renderable by a selected network rendering device. Benefits are described as follows:

“control points [or network rendering devices] have faster reaction times when they browse the content directory service - the content directory being the stored filtered information. Further, less load on the content directory service, the control point and the network is obtained when the control point browses the content directories. Further, the content presented to the user on the user screen of a control point only comprises content, which can be used³.”

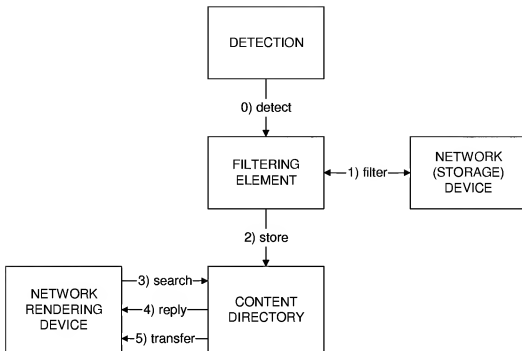
Such filtering and storing may be performed in predefined time intervals, or upon detection of changes to the network or network rendering devices⁴.

Operation of a system and method according to the present invention may be described with reference to the following illustrative diagram.

² Application, page 2 (emphasis added).

³ Application, page 3.

⁴ Application, pages 2-3 and 8-9.



ILLUSTRATIVE DIAGRAM 1 CONSISTENT WITH APPLICANTS' CLAIMS

In the foregoing illustrative diagram, steps are numbered in sequence, with the steps of 1) *filter* and 2) *store* being performed prior to the 3) *search (or browse)* and 4) *reply* (and optional 5) *transfer*) steps. Detection of renderer features (step 0) *detect*) may be performed to provide information to the filtering element⁵.

The foregoing illustrative diagram shows that the 1) filtering and 2) storing steps are performed prior to the 3) search (or browse) step, consistent with the subject matter of claim 13 (in which the storing step requires performance of the filtering step, and the searching or browsing step requires performance of the storing step). The filtering and storing steps are performed independently of the search/browse step, as demonstrated by the disclosure that filtering and storing may be repeated according to a predetermined time interval or as needed upon detection of changes to the network or network rendering devices.

Theriault discloses use of a proxy that serves as an intermediary between a browser and an information source, with the proxy 300 serving to modify a query 160 initiated by the browser 100 (and pass the modified query 360 to the information source 140), and with the proxy 300 serving to modify a response 170 provided by the information source (and pass the modified response 370 to the browser 100). Such regime is illustrated in Theriault Figure 2, which is reproduced below for ease of reference.

⁵ Application, page 6 (“[N]etwork device 109 comprises detection means 117 for identifying network rendering device features such as supported formats, transport protocols and DRM system. Using filtering means 118 this information is compared to the available content in the database 111.”)

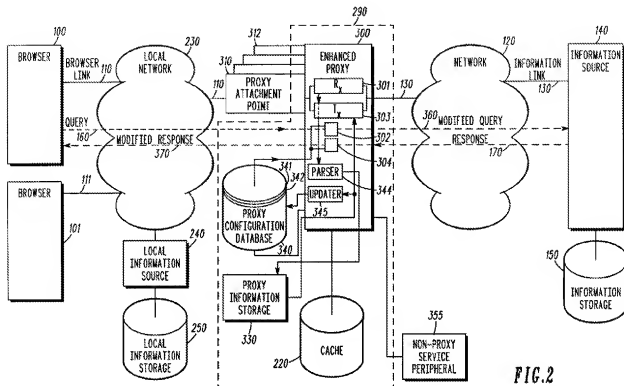


FIG. 2

Such regime is further described by Theriault at col. 6, line 66 – col. 7, line 23, as reproduced below.

Information exchange between the browsers 100 and 101 and the information source 140 is facilitated by sending queries 160 and responses 170 through the enhanced proxy 300 via the communication channel. The purpose of the enhanced proxy is to modify a query 160 and/or response 170 according to a set of filtering services that the browser has established. Therefore, when a query 160 is received on the proxy attachment point 310, the query is channeled through the enhanced proxy 300 to be modified according to the filtering services established with the proxy for that browser. The **modified query 360 is then forwarded by the enhanced proxy on to the information source 140** via the communication channel. This process is described in more detail below with reference to FIG. 3.

On receiving the modified query 360, **the information source 140 fetches the requested information from the attached information storage 150 device and sends the response 170 back to the enhanced proxy 300** via the communication channel. The response filter 304 of the enhanced proxy 300 modifies the response according to the set of filtering services established for the browser, possibly storing all or part of the modified

response 370 on the proxy information storage 330 device, and sends the modified response 370 back to the browser. This process is described in more detail below with reference to FIG. 4.

The relationship between Theriault's browser, proxy, and information storage elements is also described in Theriault's abstract, as reproduced below.

A query (160) is sent from a browser (100, 101) to a proxy (300) directed to an information source (140) in a networked data communications system. In one aspect, the query is modified by the proxy to provide a modified query and the modified query is forwarded to the information source (120). A response (170) is received at the proxy from the information source and forwarded to the browser. In another aspect the response is modified by the proxy to provide a modified response (370) which is forwarded to the browser. The proxy (300) has a proxy configuration database (340) including a file (341) of services identifying a method of filtering for a specified browser (100) and filters (302, 304) for filtering responsive to the file of services, respectively, queries from and responses to the specified browser. The method of filtering may vary or be modified, for example, according to attributes of the URL within the query, proxy attachment point (310) for the browser, response content, or changing browser requirements, as user, device, or network service needs change.

Although Theriault does disclose filtering by the proxy (e.g., to modify a query to the information source or response from the information source), such filtering is performed only upon initiation by the browser of a query. In this regard, Theriault's filtering and querying steps are not independent from one another.

With respect to Applicants' independent claim 13, Theriault does not disclose "searching or browsing the content directory to review said filtered information devoid of content that cannot be rendered by the at least one network rendering device." Theriault discloses that queries (including filters applied by the proxy) are directed to the information source 140, with the Theriault's proxy providing only an intermediary function. Claim 13 requires "searching or browsing the content directory to review said filtered information devoid of content that cannot be rendered by the at least one network rendering device." Since Theriault's filtering is performed simultaneously with the querying step (e.g., forwarding of the modified query 360 to the information source 140), Theriault fails to disclose any "searching or browsing the content directory to review said

filtered information devoid of content that cannot be rendered by the at least one network rendering device” as required by claim 13.

Further with respect to Applicants’ independent claim 13, Theriault fails to disclose the limitation “wherein said searching or browsing of the content directory is independent of said periodic filtering of information about the content to yield filtered information devoid of content that cannot be rendered by the at least one network rendering device,” as it has been demonstrated above that Theriault’s filtering and querying steps are not independent from one another.

With respect to Applicants’ independent claim 25, such claim recites, *inter alia*, “wherein the content directory is searchable or browseable to enable review of said filtered information devoid of content that cannot be rendered by the at least one network rendering device, and the content directory is searchable or browseable independently of said periodic filtering by the at least one filtering element.” As noted previously, Theriault discloses that queries (including filters applied by the proxy) are directed to the information source 140, with the Theriault’s proxy providing only an intermediary function. Since Theriault’s filtering is performed simultaneously with the querying step (e.g., forwarding of the modified query 360 to the information source 140), Theriault fails to disclose a “content directory is searchable or browseable to enable review of said filtered information devoid of content that cannot be rendered by the at least one network rendering device,” as required by claim 25. Theriault fails to disclose the feature of claim 25 that “the content directory is searchable or browseable independently of said periodic filtering by the at least one filtering element,” since Theriault’s filtering and querying steps are not independent from one another.

It has therefore been demonstrated that Theriault fails to disclose all elements of Applicants’ independent claims 13 and 25.

None of Hughes, Abdulrahiman, Safadi, or Gorman, whether alone or in combination, remedy the defects of Theriault in disclosing all elements of independent claims 13 and 25.

Hughes has been cited by the examiner as teaching incrementing filter hits during a scan interval, as well as filtering and/or preventing access to blocked material⁶.

Abdulrahiman has been cited by the examiner as teaching wireless transmission of contents among portable devices, content having a transport protocol, and about content not compatible with network rendering devices⁷.

Safadi has been cited by the examiner as teaching about copy protection of contents and Digital Rights Management (DRM) over communication networks and devices⁸.

Gorman has been cited by the examiner as teaching a system and method for filtering and sorting data, and content performed when a network rendering device is removed from a network⁹.

Cheng has been cited by the examiner as teaching about network communications over server and devices in a UPnP network¹⁰.

Because none of the cited references discloses all elements of Applicants' independent claims 13 and 25, such claims are patentably distinct over the cited art. Since dependent claims inherently include all the features of the claims from which they depend, claims 14-24 and 26-27 are likewise distinguished over the cited art for at least the same reasons articulated herein in connection with independent claims 13 and 25. Accordingly, favorable examination of all pending claims 13-27 is warranted, and is respectfully requested.

⁶ April 13, 2009 Office Action, pages 4-5.

⁷ April 13, 2009 Office Action, pages 8-9.

⁸ April 13, 2009 Office Action, page 10.

⁹ April 13, 2009 Office Action, page 11.

¹⁰ April 13, 2009 Office Action, page 13.

III. THE EXAMINER HAS FAILED TO PROVIDE ARTICULATED REASONING WITH RATIONAL UNDERPINNING TO SUPPORT THE CONCLUSION OF OBVIOUSNESS

In *KSR Int'l. Co. v. Teleflex, Inc.*, 127 S.Ct 1727, 167 L.Ed.2d 705, 82 USPQ2d 1385, 1396 (2007), the Supreme Court noted that the analysis supporting a rejection under 35 U.S.C. 103(a) should be made explicit, and that it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed:

“Often, it will be necessary ... to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an **apparent reason** to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis **should be made explicit.**” *KSR*, slip op. at 14 (emphasis added).

The Supreme Court further stated in *KSR* that “there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”¹¹.

Following *KSR*, the Federal Circuit held that although “rigid” application of the “teaching, suggestion, or motivation” (“TSM”) test for obviousness is improper, **application of a flexible TSM test remains the primary guarantee against improper “hindsight” analysis**, because a flexibly applied TSM test ensures that the obviousness analysis proceeds on the basis of evidence in existence before time the application was filed, as required by 35 U.S.C. §103. *Ortho-McNeil Pharm. Inc. v. Mylan Labs., Inc.*, 520 F3d 1358, 86 USPQ2d 1196, 1201-02 (Fed. Cir. 2008)

The April 13, 2009 Office Action fails to identify an apparent reason to combine the references, other than to merely include the examiner’s conclusions that:

- “[i]t would have been obvious to have combined the teachings of Theriault and Hughes by modifying the teaching of Theriault in order to secure the network by periodically filtering and fully block the unapproved sites from the users;”
- “[i]t would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined the teachings of Theriault, Hughes, and Abdulrahiman by modifying the teachings of Theriault and Hughes in order to prevent certain data information from being transmitted to the destination by following certain supported data formats;” and

¹¹ See *KSR*, 82 USPQ2d at 1396 (emphasis added).

- “[i]t would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined the teachings of Safadi with Theriault, and Hughes and modify the teachings of Theriault and Hughes in order to interface with the multiple content providers and provide copy protection of content.”

In each case, the examiner’s reasoning supporting the combination of references speaks to an end result and not a reason to combine. Such combinations of references are therefore premised on hindsight, which is improper¹². The examiner’s conclusions of obviousness lack articulated reasoning with rational underpinning, which have been deemed insufficient for supporting an obviousness rejection¹³. Applying a flexible TSM test (as validated by the Supreme Court in *KSR* and subsequently validated by the Federal Circuit in *Ortho-McNeil, supra*), the examiner has failed to point to any teaching, suggestion, or motivation for combining the cited references, other than hindsight following review of Applicant’s disclosure.

The foregoing arguments provide an independent basis (other than the failure of the art to disclose all elements of Applicant’s new claims) for differentiating the claims over the cited art.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

¹² See *KSR*, 82 USPQ2d at 1396.

¹³ See *KSR, supra*.

CONCLUSION

In light of the foregoing, Applicants respectfully submit that all of the now-pending claims are in condition for allowance. Examination of all pending claims and issuance of a notice of allowance are earnestly solicited. Should any issues remain that may be amenable to telephonic resolution, the examiner is invited to telephone the undersigned attorneys to resolve such issues as expeditiously as possible.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

Respectfully submitted,

By: /vincent k. gustafson/
Vincent K. Gustafson
Registration No.: 46,182

Dated: June 15, 2009

INTELLECTUAL PROPERTY/
TECHNOLOGY LAW
P.O. Box 14329
Research Triangle Park, NC 27709
Phone: 919-419-9350

For: Kevin C. Ecker
Registration No.: 43,600
Phone: (914) 333-9618

Please direct all correspondence to:
Kevin C. Ecker, Esq.
Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510-8001